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12 **UNITED STATES DISTRICT COURT**
13 **EASTERN DISTRICT OF CALIFORNIA**
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16 SUN VALLEY FARMS, LLC

PETITIONER,

CASE NO.

17 vs.

18 WESTERN VEG PRODUCE, INC.

RESPONDENT

19 PETITION FOR REVIEW OF DECISION OF
20 BY U.S. SECRETARY OF AGRICULTURE IN
21 PACA Docket No. W-R-2018-149

22 PETITIONER, SUN VALLEY FARMS, LLC, hereby petitions this court for a review de novo of
23 that certain decision of the Secretary of Agriculture in PACA Docket No. W-R-2018-149, a copy of
24 which is attached hereto as Exhibit 1. This appeal is made pursuant to 7 U.S.C. 499g. The grounds for
25 the appeal are that the Secretary ignored substantial evidence that the parties were on a FOB Texas
26 (delivery to Respondent) basis and not consignment basis. In other words, respondent purchased the
27 avocados upon delivery at the then going market rate.

28 The proceedings below involved a petition filed by Sun Valley Farms, LLC against Wester Veg
29 Produce, Inc. with the Secretary of Labor under the Perishable Agriculture Commodities Act. No
30 hearing took place and the decision was made on submitted papers by the parties. Respondent Westn
31 Veg Produce, Inc. has offices in Bakersfield, CA.
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1 PETITIONER prays for a judgment in the sum of \$218,659.98 for the sale of avocados to
2 respondent, interest where allowable on all sums due, along with costs of suit, and attorneys fees.

3 **RESPONDENT REQUESTS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

4 DATED: November 20, 2020

/s/ Randy Rumph

RANDY RUMPH

ATTORNEY FOR SUN VALLEY FARMS, LLC

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF KERN

ss.

I am employed in the County of Kern, State of California. I am over the age of 18 and not a party to the within action; my business address is: *218 H St, Bakersfield, California, 93304*

On November 20, 2020 , I served the foregoing document described as: PETITION FOR REVIEW OF DECISION OF BY U.S. SECRETARY OF AGRICULTURE IN PACA Docket No. W-R-2018-149, on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Western Veg Produce Inc.
19325 Flightpath Way
Bakersfield, CA 93308

- BY U.S. MAIL:** I deposited such envelope with postage thereon fully prepaid in the United States mail at Kern County, California. I am "*readily familiar*" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in the ordinary course of business.
 - BY OVERNIGHT DELIVERY:** I enclosed the document in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the addressee(s) listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
 - BY FACSIMILE:** Pursuant to *California Rules of Court*, Rule 2006, the telephone number of the sending facsimile machine was (661) 322-8478, and the telephone number of the receiving facsimile machine(s) is listed above. The facsimile machine I used complied with the *California Rules of Court*, Rule 2004 and no error was reported by the machine. Pursuant to *California Rules of Court*, Rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which will be produced upon request.

STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

- FEDERAL:** I declare that I am employed in the office of a member of the bar at whose direction the service was made.

Executed on November 20, 2020, Bakersfield, CA

S. DAMANT